

Order

Michigan Supreme Court
Lansing, Michigan

April 26, 2006

Clifford W. Taylor,
Chief Justice

129249-50 & (45)

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

DEPARTMENT OF EDUCATION,
Petitioner-Appellee,

v

SC: 129249
COA: 252288
Wayne CC: 03-304444-AA

GROSSE POINTE PUBLIC SCHOOLS,
Respondent-Appellant.

GROSSE POINTE PUBLIC SCHOOLS,
Plaintiff-Appellant,

v

SC: 129250
COA: 252428
Wayne CC: 03-304443-CZ

DEPARTMENT OF EDUCATION,
Defendant-Appellee.

On order of the Court, the application for leave to appeal the May 5, 2005 judgment of the Court of Appeals and the motion to file brief amicus curiae are considered. The motion to file brief amicus curiae is GRANTED. Pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE the judgment of the Court of Appeals. The Court of Appeals erred in considering the substance of the issues involved in this case because, as stated by dissenting Court of Appeals Judge Talbot, those issues are moot in light of the fact that Grosse Pointe Public Schools has paid for the individual educational evaluation at issue. Although the Court of Appeals correctly cited the test for determining when a moot issue ought to be reviewed, i.e., when “the issue is one of public significance that is likely to recur, yet evade judicial review,” *Federated Publications, Inc v Lansing*, 467 Mich 98, 112 (2002), we agree with the dissent that the court erred in considering the issues based on a mere finding that the issues “could” recur and evade judicial review.

We do not retain jurisdiction.



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I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

April 26, 2006

Corbin R. Davis

Clerk